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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,222	12/15/2003	Cameron Bolitho Browne	00169.002800.	8645
5514 7590 08/18/2009 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER				
KE, PENG				
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/734,222

**Applicant(s)**

BROWNE ET AL

**Examiner**

SIMON KE

**Art Unit**

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3-7, 22, 25 and 31-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-7, 22, 25, 31-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This action is responsive to communications: Amendment, filed on 5/26/09.

Claims 1, 3-7, 22, 25, 31-40 are pending in this application. Claims 1, 22, and 25 are independent claims. In the Amendment, filed on 5/26/09, claims 1, 3-7, 22, 25, and 31-40 are amended, and claims 2, 8-21, 23-24, and 26-30 are cancelled.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-7, 22, 25, 31-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over MS Windows XP Explorer ("Explorer") in view of Rosenzweig US Publication 2004/0064455.

As per claims 1, Explorer teaches a method of classifying one or more images, said method comprising the steps of:

displaying an iconic representation of each of said images on a graphical user interface (fig. 2; *images of different flowers on the right window*), and creating an association between at least one of said images and at least one predetermined metadata item representing a classification of said image, and in response to the iconic representation of said image being

positioned within a client area of said graphical user interface, and generating and displaying an iconic representation of said predetermined metadata item for display on said graphical user interface based on said created association (figures 2-3; *dragging and dropping two flower images into the metadata bin "New Zealand" on the left window; note a new iconic representation of "New Zealand" is created with the images being shown on the folder bin*).

However, MS Windows fails to associate a plurality of images with an item representing a classification of the plurality of images within an empty position.

Rosenzweig teaches associate a plurality of images with an item representing a classification of the plurality of images with an empty position. (see Rosenzweig, Paragraph 0032, 0033)

It would have been obvious to an artisan at the time of the invention to include Rosenzweig's teaching with method MS Explorer in order to allow users to create tags associated with the images.

As per claim 3, Explorer teaches the steps of: creating an association between at least a further one of said images and said at least one metadata item, in response to the iconic representation of said further image being selected and moved to a position defined by said displayed metadata representation (*an iterative/duplicate process if the user continues with moving other images on the right window into one of the metadata bin/folder on the left window in figure 2*).

As per claims 4 and 40, Explorer teaches wherein the iconic representations of the metadata items are arranged according to a hierarchical structure, and said hierarchical structure of iconic representations of metadata items is displayed as a tree structure with expand icons indicating whether a parent iconic representation is open and displaying child iconic representations (figs. 2-3; *note the hierarchical structure of the folders associated with metadata items on the leftmost side of the left window*).

As per claim 5, Explorer teaches an updating step of updating said hierarchical structure based on metadata items associated with at least one of said images (figs. 2-3; *note the updating of the folder of metadata item "New Zealand" on the right pane of the left window as changed from fig. 2 to fig. 3*).

As per claim 6, Explorer teaches the step of storing said association between said image and said at least one predetermined metadata item (*inherent function to Windows Explorer in order to organize and display the information properly as shown in figures 2-3*).

Claims 7 similar in scope to claim 2, and are therefore rejected under similar rationale.

Claims 22 and 25 are similar in scope to claims 1, and 7 and are therefore rejected under similar rationale.

As per claim 31, Explorer and Rosenzweig teaches a method according to claim 1, Rosenzweig further teaches the items comprises at least one of a field of said iconic representation of the item, a field of a label of the item, a field of a reference to said associated image and a field of a type of the item. (see Rosenzweig, Paragraph 0032, 0033)

As per claim 32, Explorer and Rosenzweig teaches a method according to claim 31, Rosenzweig further teaches wherein a value of the field is editable by a user. (see Rosenzweig, Paragraph 0032, 0033)

As per claim 33, Explorer and Rosenzweig teaches a method according to claim 31, Rosenzweig further teaches a value of the field is obtained from associated image. (see Rosenzweig, Paragraph 0032, 0033)

As per claim 34, Explorer and Rosenzweig teaches a method according to claim 31, Explorer each of image is region of a corresponding larger image. (figures 2-3; *dragging and dropping two flower images into the metadata bin "New Zealand" on the left window; note a new iconic representation of "New Zealand" is created with the images being shown on the folder bin*)

As per claims 35-36, Explorer teaches designating one said metadata item as a child item of a parent metadata item in response to an iconic representation of said one metadata item being dropped on the iconic representation of said parent metadata item; and associating with said parent metadata item at least one image associated with said child metadata item (fig. 3; *when the flower images are dropped in the "New Zealand" metadata item, the system inherently designates the flower image items to be child items of "New Zealand"*).

Claims 37-38 are similar in scope to claims 35-36, and are therefore rejected under similar rationale.

Claim 39 is similar in scope to claim 35, and is therefore rejected under similar rationale.

***Response to Arguments***

Applicant's arguments with respect to claims 1, 3-7, 22, 25, 31-40 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SIMON KE whose telephone number is (571)272-4062. The examiner can normally be reached on M-Th and Alternate Fridays 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis Chow can be reached on (571) 272-7767. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Peng Ke  
/Peng Ke/  
Primary Examiner, Art Unit 2174